

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

v

File No. 120990-001

Guardian Life Insurance Company
Respondent

Issued and entered
this 28th day of September 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On April 28, 2011, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* On May 5, 2011, after a preliminary review of the material submitted, the Commissioner accepted the case for external review.

The Commissioner immediately notified The Guardian Life Insurance Company of America (Guardian) of the external review and requested the information it used to make its adverse determination. The Commissioner received Guardian's response on May 20, 2011.

Because medical issues are involved, the Commissioner assigned the case to an independent review organization which provided its analysis and recommendations on June 9, 2011.

II. FACTUAL BACKGROUND

The Petitioner is covered under a First Commonwealth group dental plan that is underwritten and administered by Guardian. His benefits are defined in the certificate of coverage entitled, "Your Dental Plan & How To Use It" (the certificate).

In October 2010 the Petitioner had a crown buildup and a crown placed on tooth #14. Guardian denied coverage for the services, stating there was no justification for replacing the

crown and the buildup was unnecessary because the tooth had sufficient structure remaining to support and retain an inlay, onlay or crown.

The Petitioner appealed the denial through Guardian's internal grievance process. At the conclusion of the process, Guardian upheld its determination and issued a final adverse determination dated April 5, 2011.

III. ISSUE

Did Guardian correctly deny coverage for Petitioner's crown buildup and crown?

IV. ANALYSIS

Petitioner's Argument

In an April 24, 2011, letter to Guardian, the Petitioner wrote:

The dental service provided included the replacement of an existing crown that became loose due to a fractured tooth that was supporting the crown. The x-ray could not reveal the fracture due to existing crown coverage. The existing crown and part of the tooth was easily removed manually by the dentist which further proves this tooth was fractured.

As a result, a core had to be put in place and a new crown had to be prepared to replace the old one.

Respondent's Argument

Guardian informed the Petitioner in its final adverse determination:

On 03/18/11 your claim for the crown and buildup for tooth # 14 was received. Coverage for these services was denied. A licensed dentist has reviewed the clinical information submitted and determined that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown. . . .

* * *

A licensed dentist has reviewed the clinical information submitted and determined that the restoration is a replacement restoration and the reason for replacement is not evident. . . .

Guardian does not believe it was necessary to replace the existing crown on tooth #14 and does not believe it was necessary to do a buildup before placing a new crown on that tooth.

Commissioner's Review

Crowns and crown buildups covered as "Major Dental Services" under the certificate (p. 18). However, the certificate under "Limitations" (p. 20) contains the following provision regarding crowns:

10. Crowns will be provided only if there is sufficient tooth structure to retain an amalgam, silicate, or plastic restoration.

The certificate also contains the following exclusion (p. 20):

1. Experimental dental care procedures or procedures which are not Medically Necessary, which do not have uniform professional endorsement or which are for cosmetic purposes only.

"Medically necessary" is defined in the certificate (p. 16) to mean "that a specific procedure provided . . . is required, in the judgment of First Commonwealth, for the treatment or management of a dental symptom or condition. . . ."

The question of whether it was medically (i.e., dentally) necessary to do a buildup and place a crown on tooth #14 was presented to an independent organization (IRO) for analysis, as required by Section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6).

The IRO reviewer is a practicing dentist who has been in active clinical practice for more than 12 years. The IRO report contained the following recommendation:

Recommended Decision:

The MAXIMUS dentist consultant determined that the crown and buildup for tooth #14 that the member underwent on 10/17/10 were medically necessary for treatment of his condition.

Rationale:

The MAXIMUS independent dentist consultant, who is familiar with the medical management of patients with the member's condition, has examined the medical record and the arguments presented by the parties.

The results of the MAXIMUS dentist consultant's review indicate that this case involves a 72 year-old male who underwent replacement of a crown on tooth #14, along with a crown buildup for this tooth, on 10/17/10. At issue in this appeal is whether these services were medically necessary for treatment of the member's condition.

The MAXIMUS dentist consultant indicated that the member's letter dated 4/24/11 describes a fracture of tooth #14. The MAXIMUS dentist consultant also indicated that the information submitted by the member's dentist's office also reported that tooth #14 had been fractured. The MAXIMUS dentist consultant

explained that the information provided for review demonstrates that a fracture of tooth #14 was present and that the crown and buildup were required for treatment of the member's condition.

Pursuant to the information set forth above and available documentation, the MAXIMUS dentist consultant determined that the crown and buildup for tooth #14 that the member received on 10/14/10 were medically necessary for treatment of his condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, a recommendation from the IRO is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on experience, expertise, and professional judgment and the Commissioner can discern no reason why its recommendation should be rejected in the present case.

The Commissioner concludes and finds that the crown buildup and crown on the Petitioner's tooth #14 were medically necessary and therefore a covered benefit under the terms of the certificate.

V. ORDER

The Commissioner reverses Guardian Life Insurance Company's April 5, 2011, final adverse determination. Guardian shall cover the crown buildup and crown on tooth #14 subject to the terms and conditions of the certificate within 60 days of the date of this Order and shall, within seven (7) days of providing coverage, furnish the Commissioner with proof it has implemented this Order.

To enforce this Order, the Petitioner may report any complaint regarding implementation to the Office of Financial and Insurance Regulation, Health Plans Division, toll free (877) 999-6442.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.